

ORIGINAL

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 DOLBY INTERNATIONAL AB

E-filing**UNITED STATES DISTRICT COURT****NORTHERN DISTRICT OF CALIFORNIA**

10 Dolby International AB,)
)
 11 Plaintiff,)
 v.)
 12)
 Research In Motion Limited and)
 13 Research In Motion Corporation,)
)
 14 Defendants.)
 15)

Case No. 11 2931**COMPLAINT FOR PATENT
INFRINGEMENT**

Judge _____

JURY TRIAL DEMANDED

16 Plaintiff Dolby International AB ("Dolby International" or "Plaintiff,"
 17 and together with its affiliates, "Dolby Labs" or "Dolby") by its undersigned
 18 attorneys, for its complaint against defendants Research In Motion Limited ("RIM
 19 Canada") and Research In Motion Corporation ("RIM USA") (collectively "RIM"
 20 or "Defendants") alleges as follows:
 21

FILED

JUN 14 2011

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**WHA**

SUMMARY OF CLAIMS

1
2 1. This case arises as a result of RIM's intentional and persistent
3 infringement of patented technologies developed by Dolby Labs that enable
4 consumers to enjoy high quality music and other audio on handheld and mobile
5 devices such as those sold by RIM. Because RIM's products include Dolby Labs'
6 inventions, those products can appeal to consumers who seek devices that
7 incorporate the functionality that the patented technologies provide. Competitors
8 of RIM have recognized the significant value in Dolby Labs' inventions at issue in
9 this case and have licensed and employed those inventions in hundreds of millions
10 of consumer devices. RIM, too, has recognized the value of Dolby Labs'
11 inventions, and by employing those inventions in its "BlackBerry" and "PlayBook"
12 products, RIM has made those devices competitive with products similar to those
13 manufactured by paying licensees.

14 2. Yet unlike virtually all of its competitors, RIM refuses to "play
15 fair," and has rejected numerous opportunities to license the patented inventions at
16 issue in this case. In fact, RIM stands virtually alone among major manufacturers
17 of smart phones and competes unfairly by marketing products that benefit from
18 using the HE AAC Standards while refusing to pay royalties to use Plaintiff's
19 inventions. Faced with RIM's recalcitrant infringement, Dolby International has
20 been forced to bring this action seeking damages for past use of its technologies
21 and to enjoin the sale of each and every one of RIM's devices using the patents in

1 suit. In addition, and because RIM's infringement is and continues to be willful,
2 Dolby International seeks enhanced damages and an award of its fees and costs.

3 3. Since its founding in 1965, Dolby Labs has dedicated itself to
4 developing innovations that substantially improve consumers' enjoyment of audio
5 and audio-visual entertainment. Among the many Dolby inventions are noise
6 reduction employed by the recording and cinema industries, and surround sound
7 for cinema and home entertainment. Dolby Labs' primary focus is not on
8 manufacturing devices, creating content, or delivering content to consumers.
9 Instead, Dolby Labs focuses on translating its cutting-edge research and
10 development into inventions for audio storage, delivery, and interoperability that
11 have been incorporated into products made available on a worldwide basis. Dolby
12 Labs widely licenses its inventions to companies seeking to give consumers a
13 premium audio experience.

14 4. Plaintiff's inventions have created the opportunity for numerous
15 consumer devices to reproduce audio in ways that would not be possible without
16 Plaintiff's inventions.

17 5. The patents at issue in this case are essential to the use of many
18 audio features on RIM's devices, including playback of certain significantly
19 compressed digital audio files. Using Plaintiff's inventions, compressed audio
20 signals can be reproduced with "transparent" quality—meaning that a vast majority
21 of listeners will not prefer the original signal to the digital reproduction—using

1 only half the storage or bandwidth that previous technologies required. Thus,
2 Plaintiff's inventions enabled audio reproduction with approximately twice the
3 efficiency of previously existing technologies.

4 6. Plaintiff's inventions at issue in this action have been widely
5 recognized as enabling highly efficient transparent audio reproduction in devices
6 such as those sold by RIM, and such technologies have been adopted in a
7 worldwide standard known as High Efficiency Advanced Audio Coding ("HE
8 AAC"). The use and employment of HE AAC necessarily infringes the patents
9 asserted in this action.

10 7. HE AAC functionality is implemented in numerous devices
11 manufactured and sold by RIM, including all of RIM's latest multi-function smart
12 phone BlackBerry devices and RIM's BlackBerry "PlayBook" tablet computer.

13 8. RIM advertises that many of its devices support HE AAC.

14 9. HE AAC describes technology that reduces, or "compresses,"
15 the amount of data required to record digital audio signals, *e.g.*, recordings or
16 broadcasts of music or voice, such as those typically found on compact discs or
17 heard on the radio or those that accompany digital video signals. Once compressed
18 into an HE AAC-compliant "bitstream," any particular audio signal will require
19 only a fraction of the storage space and transmission data rate that the original
20 signal required. For example, using HE AAC compression, a standard 74-minute
21 stereo audio CD would shrink from an original size of 650 megabytes down to a

1 compressed size of only 35 megabytes without any subjective degradation in
2 quality.¹ HE AAC is therefore approximately 19 times more efficient than the
3 storage method used on a traditional audio CD. This compression can result in a
4 significant cost savings to both content providers and end users because it
5 maintains transparent audio quality while economizing both on the amount of
6 storage media that must be purchased to store any given signal and on the amount
7 of data used to transmit and receive the signal.

8 10. The use of HE AAC enables consumers to enjoy transparent
9 digital audio while meeting the limitations and demands of storage on portable
10 devices, such as smart phones, portable music players, computer tablets and other
11 devices, and the limitations and demands of transmission over limited bandwidth
12 channels, including cellular telephone networks and satellite radio.

13 **JURISDICTION AND VENUE**

14 11. This action arises under the patent laws of the United States,
15 Title 35, United States Code, including without limitation 35 U.S.C. §§ 271 and
16 281.

17 12. This Court has subject matter jurisdiction under 28 U.S.C.
18 §§ 1331 and 1338(a).

19
20 ¹ This assumes a compressed data rate of 64 kilobits per second, which is the data rate used
21 by many digital broadcasters and which has been found acceptable by the vast majority of
listeners.

1 13. RIM USA and, on information and belief, RIM Canada,
2 through their own acts and/or through the acts of their respective affiliated
3 corporations, acting as their agents and/or alter egos, have purposefully imported,
4 sold, caused to be sold, and/or continue to sell and cause to be sold infringing
5 products in the United States and in this judicial district through regular
6 distribution channels knowing such products would be used, offered for sale and/or
7 sold in this judicial district.

8 14. Plaintiff Dolby International is a wholly owned subsidiary of
9 Dolby Laboratories, Inc., which is located in this judicial district, having its
10 principal offices at 100 Potrero Avenue, San Francisco, California 94103-4813,
11 and conducts substantial business in this district. Certain documents, objects, and
12 witnesses that may be relevant to this action are located within this judicial district.

13 15. This Court has personal jurisdiction with respect to Defendant
14 RIM USA as a result of RIM USA's past and continuous transaction of business
15 within this State, including having purposefully sold and offered for sale in this
16 judicial district infringing products through regular distribution channels.

17 16. This Court has personal jurisdiction with respect to Defendant
18 RIM Canada as a result of RIM Canada's contacts with this judicial district, which
19 directly relate to Plaintiff's claims. On information and belief, RIM Canada has:
20 (i) purposefully manufactured and/or caused to be manufactured products that
21 infringe the patents in suit and has either directly imported such infringing

1 products or caused such products to be imported with knowledge that such
2 products would be used, offered for sale and/or sold in this judicial district;
3 (ii) caused RIM USA and/or other of its affiliated companies, acting as its agents
4 and/or alter egos, to import, offer for sale and/or sell infringing products through
5 regular distribution channels knowing such products would be used, offered for
6 sale and/or sold in this judicial district; and/or (iii) engaged in transactions
7 occurring within this judicial district and/or directed at this judicial district, such
8 transactions having the purpose and effect of promoting the sale of infringing
9 products within this judicial district.

10 17. Venue is proper in this district pursuant to 28 U.S.C.
11 §§ 1391(b), (c), and (d), and § 1400(b).

12 **THE PARTIES**

13 18. Plaintiff Dolby International AB (previously known as Coding
14 Technologies Sweden AB, Coding Technologies AB and Dolby Sweden AB) is a
15 Swedish corporation having its principal place of business in Amsterdam, the
16 Netherlands.

17 19. Dolby International is a wholly owned subsidiary of Dolby
18 Laboratories, Inc., which together with its affiliates has employees in the United
19 States and overseas and annual revenues of approximately \$1 billion.
20
21

1 20. On information and belief, defendant Research In Motion
2 Limited is a Canadian corporation having its principal place of business in
3 Waterloo, Ontario, Canada.

4 21. On information and belief, defendant Research In Motion
5 Corporation is a Delaware corporation having its principal place of business at
6 122 West John Carpenter Parkway, Suite 430, Irving, Texas 75039, and which is
7 currently registered to transact business with the Secretary of State of California.

8 22. On information and belief, RIM and its affiliates employ
9 approximately 14,000 employees worldwide, and in fiscal year 2010 RIM's annual
10 revenue was approximately \$15 billion.

11 **BACKGROUND**

12 23. Plaintiff's inventions were the result of lengthy and costly
13 research. As a result of these inventions, handheld devices such as those sold by
14 RIM are capable of playing high-quality audio from sources as varied as streaming
15 internet radio and other services, downloadable music and video files, and other
16 sources.

17 24. All audio which can be played on handheld devices such as
18 those sold by RIM is encoded and decoded in a digital, rather than analog, format.
19 The amount of digital information that would be required to produce a digital
20 replica of an analog sound wave would overwhelm storage capacity, network
21 capabilities, and battery resources of portable devices such as those employed and

1 sold by RIM. Consequently, digital audio signals must be compressed, or
2 “encoded,” to reduce the information that is required to reproduce the audio sound.
3 Historically, a high level of compression—which necessarily encodes less than a
4 complete replica of an analog sound wave—would cause audible distortions that
5 reduced the quality of reproduced sounds.

6 25. The quality of compressed digital audio has generally increased
7 over the years, but it was not until the patented inventions of Plaintiff that
8 transparent digital audio could be achieved with anything like the efficiency that is
9 available through the use of Plaintiff’s inventions. Plaintiff’s inventions have been
10 widely credited as causing the improvement in compression efficiency from prior
11 digital audio encoding and decoding capabilities to what those capabilities are
12 today.

13 26. Compression technologies like HE AAC, which employs
14 Plaintiff’s inventions, are called “psychoacoustic” because the bulk of their
15 efficiency gains are derived by exploiting the inherent limitations of the physiology
16 of the human auditory system. Through painstaking research and development,
17 including experiments using test subjects, Plaintiff’s researchers have spent years
18 determining which portions of an audio signal are perceptible to a human listener,
19 and which portions can be safely ignored, or even distorted, by an encoding
20 algorithm in order to achieve encoding efficiencies.

1 27. Plaintiff's inventions are responsible for two tools that have
2 substantially increased the compression power and audio quality available through
3 the use of HE AAC. These tools—which are the subject of this action and are
4 widely deployed in RIM devices—are “spectral band replication” (“SBR”) and
5 “parametric stereo” (“PS”).

6 28. Plaintiff is universally recognized as an inventor of these two
7 compression technologies in particular, which represented a quantum leap forward
8 in compression efficiency, and which were perfected only after years of research
9 and development.

10 29. Spectral band replication takes advantage of the human ear's
11 ability to recognize the presence and general contours of very high frequency
12 sounds, but its inability to distinguish fine detail among these higher frequencies.
13 Rather than using data to encode the actual high-frequency sounds, SBR encodes
14 only the general contours that the human ear is capable of hearing and discards the
15 rest. Upon decoding, a synthetic signal is generated in the higher frequencies that
16 is related to the lower frequencies, thereby reconstructing an acceptably accurate
17 reproduced sound while achieving vastly improved compression efficiency.

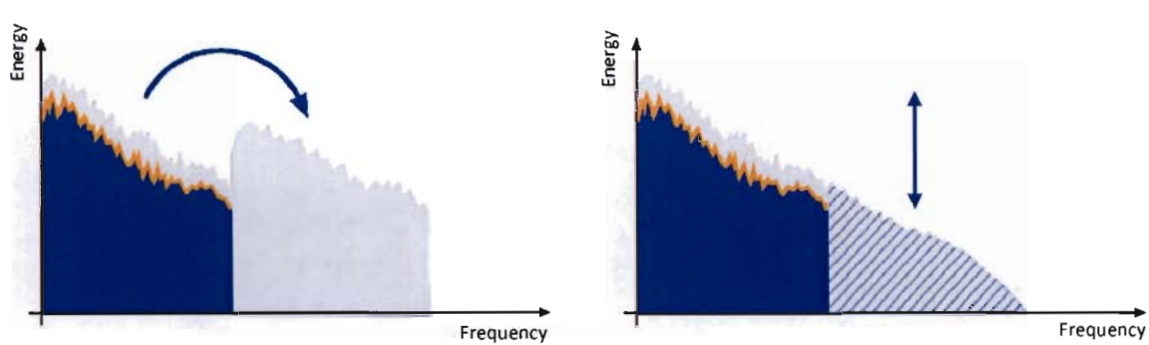


Figure 1.

30. As shown in Figure 1, broadly speaking, SBR reconstructs higher-frequency sounds by shifting lower frequencies upwards, and then shaping the sound using encoded parameters.

31. Parametric stereo takes advantage of the way in which the human ear perceives the locations of sounds, which primarily depends on, among other things: (1) the relative volume of sound arriving in each ear; and (2) the relative degree of similarity or mismatch between how the same signal sounds in one ear contrasted with the other ear. Rather than encode two separate streams of audio—the way stereo sound has been recorded for decades—PS encodes one combined signal, and then encodes “parameters” so that the decoder can synthesize two signals that resemble the original stereo signal in the necessary ways.

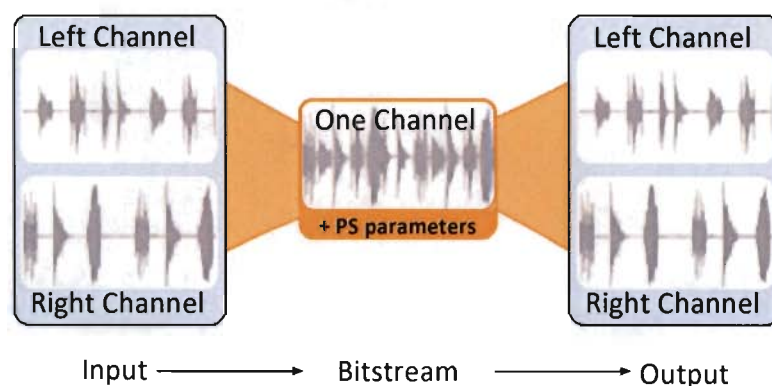


Figure 2.

32. As shown in Figure 2, PS reconstructs two channels of sound by collapsing two channels into one, accompanied by several “parameters” that can be used to reconstruct the two channels.

33. In order to enable widespread adoption of Plaintiff’s patented technologies by diverse device manufacturers, content suppliers, and end users, Plaintiff’s patented inventions were incorporated into the worldwide audio compression standards known as High Efficiency Advanced Audio Coding version 1 (“HE AAC v1”) and High Efficiency Advanced Audio Coding version 2 (“HE AAC v2”) (which are also informally known as “aacPlus” and “Enhanced aacPlus,” or “AAC+” and “eAAC+,” respectively) and which are formally codified by the International Organization for Standardization in the international standard ISO/IEC 14496-3:2009(E) (collectively, the “HE AAC Standards”).

34. To produce an HE AAC-compliant stream of compressed binary data (“bitstream”), a digital audio signal is processed by a computer algorithm that has been designed to meet the HE AAC Standards. After storage

1 and/or transmission, the bitstream is reconstructed into a digital audio signal
2 (“decoded”) according to a different computer algorithm. The overall process
3 must be performed according to a predetermined standard in order for any single
4 bitstream to be interoperable among various decoders. Adherence to the standard
5 allows playback devices to be compatible with audio from various HE AAC-
6 compliant encoders, and vice versa.

7 **WIDESPREAD USE OF THE HE AAC STANDARDS,**
8 **AND RESPECT FOR PLAINTIFF’S INTELLECTUAL**
9 **PROPERTY RIGHTS BY USERS OTHER THAN RIM**

10 35. After developing the SBR and PS technologies, Dolby
11 International disclosed the technologies publicly and obtained patent protection
12 from governments throughout the world.

13 36. The HE AAC Standards incorporate and rely on Plaintiff’s
14 patented technology. It is impossible to create a product that is compatible with
15 the Standards, and to achieve the desired interoperability with other HE AAC-
16 compliant data and devices, without infringing these patents. These patents are
17 therefore “Essential Patents”—and have been determined to be “essential” by an
18 independent evaluator as set forth in paragraph 42.

19 37. As part of the standard-setting process, Dolby International
20 committed itself to provide bilateral licenses to its Essential Patents.
21

1 38. As a convenience and an alternative to a bilateral license with
2 Dolby Labs, many of Plaintiff's patents are available for license through Via
3 Licensing Corporation ("Via").

4 39. Via was established to provide the marketplace with non-
5 discriminatory access to pools of essential patents covering widely adopted
6 standards and technologies. Such pool licenses are widely recognized, including
7 by the United States Department of Justice, Antitrust Division, as providing many
8 pro-competitive benefits. Among its license offerings, Via provides access to the
9 "HE AAC Essential Patent Pool" of essential patents owned by many entities,
10 including Plaintiff.

11 40. Via is a non-exclusive licensee (with a right to sublicense) of all
12 patents in suit, as well as numerous other licensors' patents that are essential to the
13 practice of the HE AAC technology. Via has the authority to offer a non-exclusive
14 sublicense to those patents throughout the world on standard, non-discriminatory
15 and reasonable terms as agent for Plaintiff and other patentees.

16 41. The license offered by Via combines rights under Plaintiff's
17 Essential Patents with other Essential Patents owned by other patentees. The Via
18 licenses provide to the marketplace an alternative to bilateral licenses with each of
19 the licensors, including Plaintiff.

20 42. As a criterion for inclusion in the licenses offered by Via,
21 patents must be deemed "essential" by an independent evaluator. The patents in

1 suit have been determined by Via's independent evaluator to be necessarily
2 infringed by the use of the HE AAC Standards, and thus are Essential Patents.

3 43. On information and belief, several hundred manufacturers and
4 software developers have recognized the value and technical superiority of the HE
5 AAC Standards and have taken a license to the patents offered by Via (including
6 the patents in suit), permitting such licensees to incorporate the HE AAC Standards
7 into their products.

8 44. On information and belief, content distributors have also
9 recognized the value and technical superiority of the HE AAC Standards, relying
10 on HE AAC-licensed products to transmit and receive their HE AAC-encoded
11 content.

12 45. The HE AAC Standards are also incorporated into the video
13 content delivery standard commonly referred to as MPEG-4, which is widely used
14 to transmit video files over the internet.

15 46. The list of manufacturers who pay royalties to license patents
16 covering the HE AAC Standards includes RIM's primary competitors in the smart
17 phone market, including Apple, HTC, LG, Motorola, Nokia, Samsung, Sony
18 Ericsson, and others.

19 47. Indeed, RIM stands virtually alone as a major manufacturer of
20 smart phones which is competing unfairly by electing to market products that
21

1 benefit from using the HE AAC Standards while refusing to pay royalties to
2 Plaintiff for using Plaintiff's inventions incorporated into those standards.

3 48. RIM's infringing devices provide HE AAC functionality
4 directly to consumers. For example, on information and belief, consumers use
5 RIM devices and software to play music and video files and listen to other audio
6 signals that have been encoded using the HE AAC Standards.

7 49. In addition, RIM's infringing devices provide HE AAC
8 functionality indirectly to consumers. For example, on information and belief,
9 RIM publishes specifications, manuals, and tutorials that instruct and enable third-
10 party software developers to access RIM's devices' built-in HE AAC functionality
11 through a conduit, or application programming interface ("API"), provided by the
12 internal software that powers its devices. On information and belief, consumers
13 use such third-party software to access the HE AAC functionality that is built into
14 RIM devices to decode audio signals that have been encoded using the HE AAC
15 Standards.

16 50. For example, on information and belief, many internet radio
17 services—as well as radio-like internet services—and numerous other audio and
18 video internet services rely on HE AAC technology to reduce their storage and
19 transmission costs and improve audio quality. Millions of listeners on wireless
20 mobile devices also benefit, because most do not have an "unlimited" wireless data
21 subscription; instead, they pay according to the amount of wireless data they send

1 and receive. The HE AAC Standards permit those users to experience audio at a
2 substantially reduced cost. On information and belief, users of RIM's devices
3 listen to these services' HE AAC-encoded audio streams through third-party
4 software that relies on HE AAC functionality provided through the BlackBerry
5 API.

6 **NOTICE TO RIM, AND RIM'S REFUSAL TO TAKE A LICENSE**

7 51. RIM has been notified repeatedly of its infringing conduct and
8 activities by numerous communications, only some of which are set forth in the
9 following paragraphs:

10 52. On information and belief, Via first contacted RIM in
11 November 2006 to discuss the use of AAC in the BlackBerry Pearl smart phone.

12 53. On information and belief, in March 2007, Via provided a
13 sample HE AAC Essential Patent Pool licensing agreement, which included a list
14 of Essential Patents.

15 54. On or about April 26, 2007, Via's Director of Licensing
16 Programs sent an e-mail to Mike Crowley and Randy Mishler, RIM's Intellectual
17 Property Counsel. This e-mail identified companies that owned patents that were
18 essential to HE AAC, and provided information to permit RIM to contact those
19 companies directly as an alternative to the license offered by Via. This e-mail
20 identified Coding Technologies AB, now Dolby International, as the owner of
21 several essential patents, and noted that "[o]f course, these are just some

1 representative patents. A more comprehensive list is presented in Appendix A of
2 the [proposed licensing agreement].”

3 55. Mr. Mishler of RIM reached out to both DLLC and Coding
4 Technologies AB and received detailed information in response to his inquiries
5 regarding Plaintiff’s technologies and RIM’s use of the patents in suit. For
6 example, in May 2007, to demonstrate the strength of its claims, Dolby
7 International provided exemplary charts describing how certain of its patents were
8 necessarily infringed by RIM’s use of the HE AAC Standards.

9 56. On information and belief, between December of 2007 and June
10 2008, Via and RIM engaged in extensive discussions and negotiated several issues
11 raised by RIM to that company’s satisfaction. Between March and June of 2009,
12 Via continued to contact RIM, seeking to have RIM honor its intellectual property
13 obligations with respect to the patents in suit and other HE AAC Essential Patents.
14 Thereafter, discussions with RIM continued and a license for execution that
15 included the patents-in-suit was sent to RIM in 2010 at RIM’s request. In early
16 2011, communications with RIM continued in an effort to have RIM honor its
17 intellectual property obligations. To date, RIM has steadfastly refused to execute
18 any license concerning the patents in suit, ignoring Via’s attempts to restart a
19 dialogue with RIM.
20
21

1 57. On information and belief, at no time has RIM ever suggested
2 that its products do not infringe the patents in suit, nor has it ever asserted that the
3 patents in suit were invalid or unenforceable.

4 58. Notwithstanding the fact that RIM was and continues to be
5 aware that its products infringed and are infringing patents owned by Plaintiff,
6 RIM has been and remains unlicensed under the patents in suit.

7 **RIM'S INFRINGEMENT**

8 59. Defendants manufacture, import, use, offer to sell, and/or sell
9 within the United States and in this district products which incorporate HE AAC
10 technology.

11 60. RIM manufactures, offers to sell, sells, uses, and/or imports a
12 number of products that employ HE AAC functionality. Without the benefit of
13 discovery from RIM about the gamut of its products with HE AAC functionality,
14 Plaintiff is not able to ascertain at the pleading stage all the RIM products with HE
15 AAC functionality. However, materials available on RIM's website identify
16 infringing products that include, but may not be limited to, the following products
17 with HE AAC functionality: the BlackBerry Storm 9530, BlackBerry Storm 9550,
18 BlackBerry Tour 9630, BlackBerry Bold 9000, BlackBerry Bold 9650, BlackBerry
19 Bold 9700, BlackBerry Bold 9780, BlackBerry Pearl 8100, BlackBerry Pearl 8130,
20 BlackBerry Pearl 8110, BlackBerry Pearl 8120, BlackBerry Pearl 8220,
21 BlackBerry Pearl 8230, BlackBerry Pearl 9100, BlackBerry Pearl 9105,

1 BlackBerry Curve 8320, BlackBerry Curve 8310, BlackBerry Curve 8520,
2 BlackBerry Curve 8330, BlackBerry Curve 8350i, BlackBerry Curve 8900,
3 BlackBerry Curve 8530, BlackBerry Curve 8910, BlackBerry Curve 8980,
4 BlackBerry Curve 9300, BlackBerry Curve 9330, BlackBerry Style 9670, and
5 BlackBerry Torch 9800 (*see* Supported Media Types on BlackBerry Smartphones
6 Reference Guide (2011) (annexed hereto as Exhibit 1)); the BlackBerry PlayBook
7 tablet computer (*see* Supported Media Types on BlackBerry Tablets Reference
8 Guide (2011) (annexed hereto as Exhibit 2)); and software that
9 decodes/decompresses or encodes/compresses audio signals according to the HE
10 AAC Standards, including without limitation versions 4.2 and, generally, higher of
11 the BlackBerry Operating System (“BlackBerry OS”) (*see* Research In Motion,
12 BlackBerry Java Development Environment API Reference: Multimedia Overview
13 (last visited June 13, 2011), *available at* [http://www.blackberry.com/developers/](http://www.blackberry.com/developers/docs/6.0.0api/multimedia-summary.html)
14 [docs/6.0.0api/multimedia-summary.html](http://www.blackberry.com/developers/docs/6.0.0api/multimedia-summary.html) (annexed hereto as Exhibit 3))
15 (collectively, “RIM’s HE AAC Products”).

16 61. RIM is infringing the patents in suit by, among other things,
17 making, importing, using, offering to sell and/or selling, in the United States and in
18 this judicial district, RIM’s HE AAC Products, which employ the patented
19 HE AAC technologies.
20
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1 62. RIM's HE AAC Products are purposely shipped by Defendants
2 through an established distribution channel and are knowingly sold, among other
3 places, within this judicial district.

4 63. The manufacture, importation, use, offer to sell, and/or sale of
5 RIM's HE AAC Products—which do any one or more of the following: decode,
6 encode, or enable or accelerate the decoding or encoding of digital audio signals
7 using patented HE AAC methods and devices—directly and/or indirectly infringe
8 the patents in suit.

9 64. Defendants have published and continue to regularly publish
10 product descriptions indicating that their products support and employ HE AAC
11 technology, and on information and belief, Defendants have distributed or
12 published print and/or video advertisements that promote RIM's HE AAC
13 Products' media-playing capabilities. Those capabilities include the ability to play
14 HE AAC content. (*See, e.g., Ex. 1.*)

15 65. In addition to their direct infringement, Defendants indirectly
16 infringe the patents in suit by importing, offering for sale and/or selling RIM's HE
17 AAC Products in this judicial district and elsewhere, which products are
18 purportedly made and sold to practice a patented method, and which products
19 constitute material parts of the inventions claimed in the patents in suit, knowing
20 that such HE AAC Products are especially made and/or especially adapted for use
21

1 in an infringement of the patents in suit, and are not staple articles or commodities
2 of commerce suitable for substantial noninfringing use.

3 66. Defendants also indirectly infringe the patents in suit by
4 importing, using, offering to sell, selling, encouraging, and instructing others to use
5 RIM's HE AAC Products, knowing that the use of these products to, among other
6 things, decode, encode, or enable or accelerate the decoding or encoding of HE
7 AAC video signals causes others to infringe the patents in suit.

8 67. RIM's infringing actions were and are taken without Plaintiff's
9 consent or authority.

10 68. RIM has been put on notice of its infringement in various
11 communications, including letters informing RIM that it remained unlicensed
12 under the HE AAC Essential Patents, including the patents in suit. On information
13 and belief, RIM had knowledge of the patents in suit prior to engaging in acts of
14 infringement and knew or should have known that it was infringing, and/or acted
15 in disregard of such risk. Thus, and for other reasons stated herein, infringement of
16 the patents in suit by RIM is willful.

17 69. This is an exceptional case and, accordingly, Plaintiff is entitled
18 to enhanced damages and its attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

19 70. Plaintiff has suffered irreparable injury for which there is no
20 adequate remedy at law as a result of RIM's infringement of the patents in suit.
21 Pursuant to 35 U.S.C. § 283, Plaintiff is entitled to an injunction against further

1 infringement by an order preventing Defendants from selling any of RIM's HE
2 AAC Products in the United States.

3 **COUNT ONE**

4 71. The allegations contained in paragraphs 1 through 70 above are
5 repeated and realleged as if fully set forth herein.

6 72. Dolby International is the legal owner of United States Letters
7 Patent No. 6,978,236 ("the '236 Patent"). The patent issued on December 20,
8 2005. (Ex. 4.)

9 73. Defendants have infringed and are infringing directly and/or
10 indirectly the '236 Patent by making, using, offering to sell, or selling RIM's HE
11 AAC Products within the United States or importing into the United States RIM's
12 HE AAC Products, in violation of 35 U.S.C. §§ 271 (a)-(c).

13 74. Unless enjoined, Defendants will continue to infringe the '236
14 Patent.

15 **COUNT TWO**

16 75. The allegations contained in paragraphs 1 through 70 above are
17 repeated and realleged as if fully set forth herein.

18 76. Dolby International is the legal owner of United States Letters
19 Patent No. 7,003,451 ("the '451 Patent"). The patent issued on February 21, 2006.
20 (Ex. 5.)
21

1 77. Defendants have infringed and are infringing directly and/or
2 indirectly the '451 Patent by making, using, offering to sell, or selling RIM's HE
3 AAC Products within the United States or importing into the United States RIM's
4 HE AAC Products, in violation of 35 U.S.C. §§ 271 (a)-(c).

5 78. Unless enjoined, Defendants will continue to infringe the '451
6 Patent.

7 **COUNT THREE**

8 79. The allegations contained in paragraphs 1 through 70 above are
9 repeated and realleged as if fully set forth herein.

10 80. Dolby International is the legal owner of United States Letters
11 Patent No. 7,382,886 ("the '886 Patent"). The patent issued on June 3, 2008.
12 (Ex. 6.)

13 81. Defendants have infringed and are infringing directly and/or
14 indirectly the '886 Patent by making, using, offering to sell, or selling RIM's HE
15 AAC Products within the United States or importing into the United States RIM's
16 HE AAC Products, in violation of 35 U.S.C. §§ 271 (a)-(c).

17 82. Unless enjoined, Defendants will continue to infringe the '886
18 Patent.

19 **COUNT FOUR**

20 83. The allegations contained in paragraphs 1 through 70 above are
21 repeated and realleged as if fully set forth herein.

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1 WHEREFORE, Plaintiff demands judgment as follows:

2 1. Adjudging, finding, and declaring that Defendants are
3 infringing the patents in suit.

4 2. Adjudging, finding and declaring that Defendants' infringement
5 has been willful.

6 3. Permanently enjoining the sale of each and every device that
7 infringes one or more of the patents in suit and permanently enjoining Defendants,
8 their officers, agents, servants, employees, and attorneys, and those persons in
9 active concert or participation with them, from infringing the patents in suit.

10 4. Awarding Plaintiff an accounting and damages against
11 Defendants in a sum to be determined at trial, together with interest and costs as
12 fixed by the Court; all of these damages to be enhanced in an amount up to treble
13 the amount of compensatory damages.

14 5. Awarding Plaintiff its reasonable attorneys' fees, costs, and
15 disbursements in this action.

16 6. Granting Plaintiff such other and further relief as is just and
17 proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues that may be so tried.

Dated: June 15, 2011



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